

APPEAL NO. 041929
FILED SEPTEMBER 27, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on July 15, 2004. The hearing officer determined that the respondent (claimant) is entitled to supplemental income benefits (SIBs) for the 6th and 7th quarters, and that the claimant is not entitled to SIBs for the 8th, 9th, and 10th quarters. The appellant (self-insured) appealed the hearing officer's determination regarding the claimant's entitlement to SIBs for the 6th and 7th quarters on sufficiency of the evidence grounds. The claimant responded, urging affirmance. The hearing officer's determination regarding the 8th, 9th, and 10th quarters have not been appealed and have become final. Section 410.169.

DECISION

Affirmed.

Eligibility criteria for SIBs entitlement are set forth in Section 408.142 and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102). In dispute was whether the claimant made a good faith effort to seek employment commensurate with her ability to work during the qualifying periods for the 6th and 7th quarters. Rule 130.102(d)(5), relied on by the claimant in this case for SIBs entitlement, provides that the good faith requirement may be satisfied if the claimant "has provided sufficient documentation as described in subsection (e)." Rule 130.102(e) states that "an injured employee who has not returned to work and is able to return to work in any capacity shall look for employment commensurate with his or her ability to work every week of the qualifying period and document his or her job search efforts." The rule then lists information to be considered in determining whether the injured employee has made a good faith effort to obtain employment commensurate with his or her ability to work.

Whether the claimant satisfied the good faith requirement for SIBs entitlement was a factual question for the hearing officer to resolve. The hearing officer noted that the claimant was renewing her job search process, and sought a variety of jobs each week during the relevant time periods. The hearing officer concluded that the claimant established that she did in fact satisfy the good faith requirement for SIBs entitlement during the qualifying periods for the 6th and 7th quarters. Nothing in our review of the record indicates that the hearing officer's SIBs determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**SUPERINTENDENT
(ADDRESS)
(CITY) TEXAS (ZIP CODE)**

Daniel R. Barry
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Gary L. Kilgore
Appeals Judge